

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT COLUMBUS**

OHIO COAL ASSOCIATION; KENTUCKY)	
COAL ASSOCIATION; NATIONAL MINING)	
ASSOCIATION; NATIONAL STONE, SAND,)	
AND GRAVEL ASSOCIATION; AND)	
PORTLAND CEMENT ASSOCIATION,)	
)	
Plaintiffs,)	Case No. 2:14-cv-2646
)	
v.)	Related case: 2:15-cv-448
)	
THOMAS E. PEREZ, SECRETARY OF LABOR,)	Judge Graham
AND MINE SAFETY AND HEALTH)	
ADMINISTRATION,)	Magistrate Judge Preston Deavers
)	
Defendants.)	

NOTICE

PLEASE TAKE NOTICE that the Federal Mine Safety and Health Review Commission (“the Commission”) recently issued a decision in *Secretary of Labor, Mine Safety and Health Administration v. Brody Mining, LLC*, FMSHRC Docket No. WEVA 2014-82-R, et al. (Sept. 29, 2015 Comm.) (copy attached). In their memorandum in support of motion to dismiss in this action (Doc. 26), in footnote 12, Defendants noted that the *Brody* case was pending. The Commission has now concluded that the Administrative Law Judge (“ALJ”) erred in dismissing the pattern-of-violations (“POV”) notice, holding that the Secretary’s definition of the term “pattern of violations” was reasonable and entitled to deference, and remanding the case to the ALJ for further proceedings.

Dated: October 1, 2015

Respectfully submitted,

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/s/ Alice Shih LaCour
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Certificate of Service

I hereby certify that on October 1, 2015, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, and notice was automatically sent to:

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Respectfully submitted,

/s/ Alice Shih LaCour
ALICE SHIH LACOUR